

## SITE DEVELOPMENT PERMIT

<b>FILE NO.</b>	<b>H16-010</b>
<b>LOCATION OF PROPERTY</b>	<b>2850 Stevens Creek Boulevard</b>
<b>ZONING DISTRICT</b>	<b>CP Commercial Pedestrian</b>
<b>GENERAL PLAN DESIGNATION</b>	<b>Neighborhood/Community Commercial</b>
<b>PROPOSED USE</b>	<b>Site Development Permit to allow the demolition of an existing gas station and the construction a 10-story, 173,043-square foot hotel with 175 guest rooms, public eating establishment, and Transportation Demand Management (TDM) measures to reduce parking requirements on a 0.5-gross acre site</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Mitigated Negative Declaration</b>
<b>OWNER/APPLICANT/ADDRESS</b>	<b>Villa Developers and Investments, LLC 2850 Stevens Creek Boulevard San Jose, California 95128</b>

### FACTS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

- 1. Project Description.** This is a Site Development Permit to allow the demolition of an existing gas station and the construction an 10-story, 173,043-square foot hotel with 175 guest rooms and a public eating establishment, and Transportation Demand Management (TDM) measures to reduce parking requirements on a 0.5-gross acre site. The proposed building would include a reception area, dining, and indoor swimming pool on the ground floor, above-grade parking on floors two through four, and guest rooms on floors five through nine. Floor 10 would include a public eating establishment and meeting rooms. Pedestrian access to the site would be provided on Stevens Creek Boulevard and South Clover Avenue. Vehicular access to the site would be provided via a two-way driveway and a passenger drop-off/pick-up zone on South Clover Avenue.  
A total of 125 parking spaces are proposed, which includes an approximately 50% parking reduction in accordance with Section 20.90.220 of the Zoning Ordinance. TDM measures, to be implemented with the project include car share, bike share, and eco passes for employees.
- 2. Surrounding Uses.** The site is surrounded by Westfield Valley Fair Shopping Mall to the north across Stevens Creek Boulevard, a hotel to the south, auto repair and a commercial strip center to the east, and a multitenant commercial building to the west across South Clover Avenue.
- 3. General Plan.** The site is designated Neighborhood/Community Commercial on the Envision San José 2040 General Plan Land Use/Transportation Diagram, which supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and

commercial/professional office development. The project site is also within the Valley Fair/Santana Row Urban Village, which is currently under development. The proposed project is consistent with the following General Plan policy pertaining to development within an Urban Village:

- a. **Community Design Policy-7.1:** Support intensive development and uses within Urban Villages, while ensuring an appropriate interface with lower-intensity development in surrounding areas and the protection of appropriate historic resources. Consistent with this policy, the project proposes an intense development on a commercial property within an Urban Village. The project is 10 stories in height and does not interface with any residential uses, but is surrounded by commercial uses on all sides.
4. **Zoning.** The site is located in the CP Commercial Pedestrian Zoning District.
  - a. **Setbacks.** The maximum front setback in the CP Zoning District is 10 feet, with no side setback requirements, and a required 25-foot rear setback. Consistent with these regulations, the project proposes a 10-foot setback from Stevens Creek Boulevard, no side setbacks, and a 25-foot rear setback.
  - b. **Height.** Pursuant to Zoning Ordinance Section 20.85.020(E.), the maximum height for properties within designated Urban Villages is 120 feet. The maximum height of the proposed buildings is 117 feet and seven inches.
  - c. **Parking.** Hotels require parking at a rate of one space per guest room, plus one space per employee. Public eating establishments require one parking space per 2.5 seats or 1 per 40 square feet of dining area, whichever requires the greater number of parking spaces. Based on 175 guest rooms and 15 employees, a total of 190 parking spaces are required for the hotel use. Based on 147 seats, a total of 59 parking spaces is required for the public eating establishment. Therefore, a total of 249 parking spaces are required.
    - i. Pursuant to Section 20.90.220 of the Zoning Ordinance, the project qualifies for a 20% parking reduction as it is within an Urban Village and provides adequate bicycle parking. To qualify for an additional parking reduction of up to 50%, the project proposed to implement the following TDM measures:
      - 1) Entrance loading zone at main entrance
      - 2) Bicycle parking
      - 3) Guest shuttle service to the airport and downtown San Jose
      - 4) On-site bicycle share program
      - 5) VTA Eco passes for employees
      - 6) Financial incentives for biking or walking to work for employees
      - 7) On-site TDM Coordinator and Services
      - 8) On-site car share programBased on implementation of the above TDM measures, the proposed project qualifies for a total parking reduction of 49.8%, and a total of 125 parking spaces are provided on-site
    - ii. **Bicycle Parking.** For hotel use, one bicycle parking is required, plus one additional space for every 10 guest rooms. Based on 175 rooms, the proposed project requires 19 bicycle parking space and 20 spaces are provided.

5. **CEQA.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties. The Stevens Creek and Clover Hotel Mitigated Negative Declaration, approved by the Director on December 7, 2016, was adopted for this project under the provisions of the environmental review requirements of Title 21 of the San José Municipal Code implementing the California Environmental Quality Act of 1970, as amended, and pursuant to Section 15164 of the CEQA Guidelines. The project will not result in significant environmental effects that have not already been identified in the Mitigated Negative Declaration.

## FINDINGS

1. Under the provisions of Section 20.80.460 of the San José Municipal Code, prior to the issuance of any development permit, which allows for the demolition, removal or relocation of a building, the following shall be considered to determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation:
  - a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
  - b. The failure to approve the permit would jeopardize public health, safety or welfare;
  - c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;
  - d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
  - e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
  - f. Rehabilitation or reuse of the existing building would not be feasible; and
  - g. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

*Based on consideration of the above, the benefits of permitting the demolition outweigh the impacts of demolition in that demolition of the existing gas station will allow the overall site to be redeveloped with a hotel, which will create new employment opportunities and economic development benefits for the City and its residents. The project is designed to be compatible with the surrounding neighborhood, will not have any impact on housing stock, and will not impact any historic resources.*

2. Under the provisions of Section 20.90.220 of the San José Municipal Code, prior to the issuance of any project that requires a TDM program:
  - a. The decision maker for the project application shall first find in addition to other required findings that the project applicant has demonstrated that it can maintain the TDM program for the life of the project, and it is reasonably certain that the parking shall continue to be provided and maintained at the same location for the services of the building or use for which such parking is required, during the life of the building or use; and

*Based upon the design features of the project and the TDM plan provided, it is reasonably demonstrated that the applicant can maintain the reduced parking through programs which encourage car sharing, bike sharing, and overall reduced car usage. Incentives will be provided to employees to use transit and other TDM program features developed to reduce parking demand. The project site is located less than 2,000 feet from the Westfield Valley Fair transit center and 900 feet from the Stevens Creek/Santana Row VTA bus stop, which connects to the San Jose Diridon Station. Proximity to transit and hotel amenities such as a shuttle bus to downtown and the airport will further reduce parking demand.*

- b. The decision maker for the project application also shall first find that the project applicant will provide replacement parking either on-site or off-site within reasonable walking distance for the parking required if the project fails to maintain a TDM program.

*If the TDM program fails, two potential off-site parking locations (386 South Clover and 2880 Stevens Creek Boulevard) have been identified by the project applicant. If the project is unable to maintain the TDM program, a Site Development Permit Amendment would be required to address the increased parking demand.*

- 3. The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, with respect to the Site Development Permit findings (Section 20.100.630), that:

- a. The Site Development Permit, as approved, is consistent with and will further the policies of the general plan and applicable specific plans and area development policies.

*The site is designated Neighborhood/Community Commercial on the Envision San José 2040 General Plan Land Use/Transportation Diagram, which supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. The project site is also within the Valley Fair/Santana Row Urban Village, which is currently under development.*

*The Site Development Permit, as approved, will further Community Design Policy-7.1 and related policies pertaining to supporting intensives economic development within Urban Villages.*

- b. The Site Development Permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project.

*The subject site is located in the CP Commercial Pedestrian Zoning District, and the Site Development Permit, as approved, would allow development of a new building and related site improvements consistent with the development standards of this district. The proposed development conforms with all required setbacks, building height regulations, site and building design guidelines, and parking requirements.*

- c. The Site Development Permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency.

*The site development permit is consistent with the City Council's Post-Construction Urban Runoff Management Policy and complies with all relevant stormwater requirements.*

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

*The proposed building will occupy the site in its entirety. No additional buildings exist or are proposed.*

- e. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

*The building fronts a commercial corridor with a mixture of varying architecture, height, and uses. The materials and finishes are predominantly influenced by the nearby shopping center which has multiple floors and uses similar stucco, stone cladding materials and architectural elements.*

- f. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

*The proposed project includes replacement of an existing obsolete gas station and associated parking and site improvements to accommodate a new high-rise office building. The proposed uses will enhance the surrounding neighborhood and not create any adverse impacts on adjacent properties.*

*The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties. The Stevens Creek and Clover Hotel Mitigated Negative Declaration, approved by the Director on December 7, 2016, was adopted for this project under the provisions of the environmental review requirements of Title 21 of the San José Municipal Code implementing the California Environmental Quality Act of 1970, as amended, and pursuant to Section 15164 of the CEQA Guidelines. The project will not result in significant environmental effects that have not already been identified in the Mitigated Negative Declaration.*

- g. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

*The proposed project will include new landscaping, irrigation, and trash facilities. The project will comply with the City's Commercial Design Guidelines, with adequate landscaping and outdoor amenities. The new building will significantly enhance and upgrade the appearance of the neighborhood.*

- h. Traffic access, pedestrian access and parking are adequate.

*The subject site has a high degree of accessibility from several major freeways, including Interstate 280. The area is also well served by other transportation facilities, including an existing light rail line. The project includes new 15-foot and 10-foot sidewalks on Stevens Creek Boulevard and South Clover Avenue, respectively.*

*A total of 125 parking spaces will be provided. Transportation Demand Management measures shall be implemented as part of the project to reduce overall parking demand at the site by encouraging the use of alternative transportation.*

In accordance with the findings set forth above, a Site Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it



would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use permitted hereby.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Site Development Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such four-year period, the proposed construction has not commenced, pursuant to and in accordance with the provisions of this Site Development Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code.
3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
4. **Conformance to Plans.** Development of the site shall conform to approved Site Development plans entitled “Valley Fair/Santana Row Area Boutique Hotel” dated July 12, 2016, last revised on October 28, 2016, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04), with the exception of any subsequently approved changes.
5. **Transportation Demand Management Plan.** The permittee shall implement the Transportation Demand Management (TDM) plan, as outlined in the “Valley Fair/Santa Row Area Boutique Hotel 2850 Stevens Creek Boulevard, San Jose Draft Transportation Demand Management (TDM) Plan” prepared by Hexagon Transportation Consultants, Inc. and dated November 16, 2016, on file with the Department of Planning, Building and Code Enforcement. TDM measured shall include the following:
  - a. Entrance loading zone at main entrance
  - b. Bicycle parking

- c. Guest shuttle service to the airport and downtown San Jose
  - d. On-site bicycle share program
  - e. VTA Eco passes for employees
  - f. Financial incentives for biking or walking to work for employees
  - g. On-site TDM Coordinator and Services
  - h. On-site car share program
6. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance.
  7. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
  8. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
  9. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
  10. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
  11. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
  12. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
  13. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
  14. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
  15. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
  16. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
  17. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit for a new building (excluding façade improvements to the existing buildings), the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit file number, H16-010, shall be printed on all construction plans submitted to the Building Division.
  - b. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
  - c. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any Building Permit issuance, Building Permit plans shall conform to the approved Planning development permits and applicable conditions.
  - d. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official: The project applicant shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street).
18. **Fire Flow.** Required fire flow for the site is calculated using CFC Appendix B, or as otherwise approved in writing by the Fire Chief. A 50% reduction in required fire flow may be authorized for sprinklered buildings containing light hazard occupancies. A 25% reduction in required fire flow may be authorized for sprinklered buildings containing ordinary hazard occupancies. No reduction is provided for unsprinklered or extra hazard occupancy buildings.
19. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by the Fire Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief. The number and distribution of fire hydrants shall be based on CFC Table C105.1 (no reduction allowed for fire flow requirement).
20. **Fire Hydrants and Driveways.** All fire hydrants shall be installed at least 10 feet from all driveways, with final locations satisfactory to the Fire Chief.
21. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE-NO PARKING," shall be provided as required by the Fire Department.
22. **Fire Department Connections.** All fire department connections shall be located within 100 feet from a standard public fire hydrant. All alternate means of protections shall be reviewed by the Fire Department. The public fire hydrant(s) shall be located on the same frontage as all fire service connections.
23. **Fire Department Connections.** Fire sprinkler and standpipe fire department connections (FDC) serving the same building shall be located directly adjacent to each other. Buildings in excess of 200 feet long and or having frontage on multiple streets shall have multiple FDCs. The Locations shall be approved during plan check by the San José Fire Department and shall be depicted on the riser key plan(s).
24. **Access Control.** When access control devices including bars, grates, gates, electric and/or magnetic locks, or similar devices which would inhibit rapid fire department emergency access to the building are installed, such devices shall be approved by the Chief. All access control devices shall be provided with an approved means for deactivation or unlocking by the Fire Department. Access control devices shall also comply with CFC/CBC Chapter 10 for exiting.



25. **High Rise Building Requirements.** The following requirements shall apply to high rise development:
- a. *Fire Sprinkler System.* Buildings shall be provided with an automatic fire extinguishing system in accordance with CFC 903.2 and SJFC 17.12.630. Systems serving more than 20 heads shall be supervised by an approved central, proprietary, or remote service to the satisfaction of the Fire Chief.
  - b. *Fire Pump and Fire Control Rooms.* The location and access to the fire pump and fire control rooms shall be pre-planned with the Fire Department. In accordance with CFC 509.2; Approved access shall be provided and maintained for all fire protection equipment to permit immediate safe operation and maintenance of such equipment. Each building shall be equipped with its own separate fire pump and fire control rooms.
  - c. *Multiple Water Mains Required.* The required fire pumps shall be supplied by connections to a minimum of two water mains located in different streets. Separate supply piping shall be provided between each connection to the water main and the pumps. Secondary water supplies shall be provided for both buildings in accordance with CFC 903.3.5.2.
  - d. *Testing of Smoke Control Systems.* The San José Fire Department does not provide testing and inspection of Smoke Control systems. System must be tested and approved by a qualified 3<sup>rd</sup> party contractor.
  - e. *Emergency Power System.* An emergency power system shall be pre-planned with the Fire Department.
  - f. *Fire Breathing Air Replenishment Systems.* Fire breathing air replenishment systems shall be required per SJFC 901.4.3.1.
26. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
27. **FAA Clearance.** Prior to the issuance of a Building Permit, the permittee shall obtain from the Federal Aviation Administration (FAA) a “Determination of No Hazard” for each building high point. The permittee shall file a “Notice of Proposed Construction or Alteration” (FAA Form 7460-1) for each building corner and any additional highest point(s). The data on the forms should be prepared by a licensed civil engineer or surveyor using NAD83 latitude/longitude coordinates out to hundredths of seconds and NAVD88 elevations rounded off to next highest foot.
28. **FAA Clearance Permit Adjustment.** Prior to the issuance of a Building Permit, the permittee shall apply for and obtain a Permit Adjustment to incorporate all FAA conditions identified in the Determinations of No Hazard (if issued), e.g., installation of roof-top obstruction lighting or construction-related notifications, into the Site Development Permit conditions of approval.
29. **Avigation Easement.** Prior to the issuance of a Building Permit, the property owner shall grant an Avigation Easement to the City of San Jose. Contact Cary Greene of the San Jose Airport Department at 408-392-3623 or cgreene@sjc.org to initiate the easement dedication process.
30. **Conformance to Mitigation Monitoring & Reporting Program.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP)

approved for this development. The following mitigation or avoidance measures are organized by impact category and identify (responsibility for monitoring compliance).

a. Air Quality (Director of Planning, Building, and Code Enforcement).

- i. MM AIR-1.1: Prior to issuance of a grading permit, the project proponent shall submit a construction logistics plan to the PBCE Supervising Environmental Planner for approval. In addition to standard permit conditions for construction activities, the plan shall include a newer, retrofitted, or alternatively powered construction equipment list to minimize emissions. Such equipment selection shall include the following:

- 1) All diesel-powered construction equipment larger than 50 horsepower and operating on site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.

b. Biological Resources (Director of Planning, Building, and Code Enforcement).

- i. MM BIO-1.1: If possible, construction shall be scheduled between September 1 and January 31 (inclusive) to avoid the nesting season. If this is not possible, pre-construction surveys for nesting raptors and other migratory breeding birds shall be conducted by a qualified ornithologist to identify active nests that may be disturbed during project implementation onsite and within 250 feet of the site. Between February 1 and April 30 (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May 1 and August 31 (inclusive), pre-construction surveys shall be conducted no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for nests.
- ii. MM BIO-1.2: If an active nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist shall, in consultation with the California Department of Fish and Wildlife (CDFW), designate a construction-free buffer zone (typically 250 feet for raptors) around the nest, which shall be maintained until after the breeding season has ended and/or a qualified ornithologist has determined that the young birds have fledged.
- iii. MM BIO-1.3: The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Supervising Environmental Planner of Planning, Building and Code Enforcement prior to the issuance of any grading and building permits.

c. Hazardous Materials (Director of Planning, Building, and Code Enforcement).

- i. MM HAZ-1.1: The project proponent shall remove USTs in accordance with applicable state and local regulatory requirements with oversight from the Santa Clara County Department of Environmental Health (SCCDEH).
- ii. MM HAZ-1.2: Soils slated for removal from the site as part of the foundation construction shall be characterized to evaluate disposal options. A soil sampling and analysis plan shall be prepared and implemented with a sufficient number of samples and chemical analyses typically required by earthwork contractors and disposal/reuse facilities
- iii. MM HAZ-1.3: A Site Management Plan (SMP) shall be prepared for the project to establish protocols for the identification, handling, and disposal of potentially

contaminated soil and groundwater (if encountered) during excavation activities. The results of the pre-excavation sampling and analysis of soils and groundwater shall be included in the SMP. The SMP shall include the following summarized items:

- 1) Protocol for the observation and field screening of exposed soil using a hand-held photoionization detector (PID) which shall be performed during excavation and any intrusive construction activities that may disturb soil;
- 2) Protocol for segregation, stockpiling, and sampling of potentially contaminated soils, if encountered;
- 3) Requirements for managing groundwater that may be encountered during construction that may contain VOCs or petroleum hydrocarbons, including temporary containerization, sampling, and disposal via off haul or discharge to the sanitary sewer;
- 4) Equipment decontamination procedures including mechanical methods such as scraping and dry brushing; and
- 5) Dust control measures including watering of active work areas, and street sweeping of site exits used during off haul.
- 6) MM HAZ-1.4: Prior to the issuance of grading and building permits, the project shall be required to test soils in accordance with applicable state and local requirements to ensure that construction workers and future hotel guests are not exposed to excessive levels of hazardous material contamination. The project shall implement mitigation measures, as needed, to reduce any potential impacts to a less than significant level to the satisfaction of the PBCE Supervising Environmental Planner in coordination with the ESD Compliance Officer.

d. Noise (Director of Planning, Building, and Code Enforcement).

- i. MM NOI-1.1: The project proponent shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or and notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will shall be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

Modification, placement, and operation of construction equipment are possible means for shall be required to minimizing the noise impact on the existing sensitive receptors. Construction equipment shall be well-maintained and used judiciously to be as quiet as possible. Additionally, construction activities for the proposed project shall include the following best management practices to reduce noise from construction activities near sensitive land uses.

- 1) Construction activities shall be limited to the hours between 7:00 am and 7:00 pm, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- 2) Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- 3) Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.

- 4) Unnecessary idling of internal combustion engines should be strictly prohibited.
  - 5) Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA.
  - 6) Utilize "quiet" air compressors and other stationary noise sources where technology exists.
  - 7) Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
  - 8) Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
  - 9) A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This measure would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
  - 10) If pile driving is necessary, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
  - 11) If pile driving is necessary, consider the use of "acoustical blankets" for receptors located within 100 feet of the site.
  - 12) Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.
- ii. MM NOI-1.2: Prior to issuance of any grading permits, the project proponent shall submit the construction noise logistics plan to the satisfaction of the PBCE Supervising Environmental Planner.
31. **Conformance to the Environmental Permit Conditions.** This project shall conform to all applicable Standard Permit Conditions, identified as part of the environmental review process, approved for this development. The following mitigation or avoidance measures are organized by impact category and identify.
- a. **AIR QUALITY**
- i Condition AQ-1: Reduce Emissions during Construction.
- 1) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered twice daily.
  - 2) All haul trucks transporting soil, sand, and other loose material off-site shall be covered.
  - 3) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

- 4) All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - 5) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - 6) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - 7) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operations.
  - 8) Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- b. BIOLOGICAL**
- i Condition BIO-1: The project applicant shall be required to comply with the Santa Clara Valley Habitat Conservation Plan and pay all applicable fees prior to issuance of a grading permit.
  - ii Condition BIO-2: Prior to issuance of building permits, the applicant shall prepare and submit a landscape plan to the City of San José for review and approval that identifies the locations, sizes, and species of replacement trees. The number of trees replaced will be based on the following table:

<b>City of San José Standard Tree Replacement Ratios</b>				
<b>Diameter of Tree to Be Removed</b>	<b>Type of Tree to be Removed</b>			<b>Minimum Size of Each Replacement Tree</b>
	<b>Native</b>	<b>Non-Native</b>	<b>Orchard</b>	
18 inches or greater	5:1	4:1	3:1	24-inch box
12-18 inches	3:1	2:1	none	24-inch box
Less than 12 inches	1:1	1:1	none	15-gallon container

The species and exact number of trees to be planted on the site will be determined in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement (PBCE). In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented, at the development permit stage:

- 1) The size of a 15-gallon replacement tree may be increased to one 24-inch box and count as two replacement trees.
- 2) An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening.



- 3) A donation of \$300 per mitigation tree to Our City Forest or San José Beautiful for in lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately 3 years. A donation receipt for offsite tree planting will be provided to the Planning Project Manager prior to issuance of a development permit.

**c. CULTURAL RESOURCES**

- i Condition CUL-1: Protection of Subsurface Prehistoric, Historic, and Other Archaeological Resources during Construction
  - 1) In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped, the Director of Planning, Building and Code Enforcement will be notified, and a qualified archaeologist will examine the find. The archaeologist will 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. If the finds do not meet the definition of a historical or archaeological resources, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then it should be avoided by project activities. If avoidance is not feasible, adverse effects to such resources should be mitigated in accordance with the recommendations of the archaeologist. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery would be submitted to the Director of Planning, Building and Code Enforcement and the Northwest Information Center.
  - 2) Project personnel should not collect or move any cultural material. Fill soils that may be used for construction purposes should not contain archaeological materials.
  - 3) In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped. The Santa Clara County Coroner will be notified immediately and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) within 24 hours of the identification. Once the NAHC identifies the most likely descendants (MLD), the descendants will make recommendations regarding proper burial (including the treatment of grave goods), which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.
  - 4) The archaeologist will recover scientifically-valuable information, as appropriate and in accordance with the recommendations of the MLD. A report of findings documenting any data recovery will be submitted to the Director of Planning, Building and Code Enforcement and the Northwest Information Center.
- ii Condition CUL-2: Protection of Subsurface Paleontological Resources during Construction
  - 1) The project proponent shall ensure all construction personnel receive paleontological resources awareness training that includes information on the possibility of encountering fossils during construction; the types of fossils likely to be seen, based on past finds in the project area; and proper procedures in the event

fossils are encountered. Worker training shall be prepared and presented by a qualified paleontologist.

- 2) If vertebrae fossils are discovered during construction, all work on the site shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The City will be responsible for ensuring that the recommendations of the paleontological monitor regarding treatment and reporting are implemented.

**d. GEOLOGY AND SOILS**

**i Condition GEO-1: Construction Measures**

- 1) All excavation and grading work will be scheduled in dry weather months or construction sites will be weatherized.
- 2) Stockpiles and excavated soils will be covered with secured tarps or plastic sheeting.
- 3) Ditches will be installed, if necessary, to divert runoff around excavations and graded areas.
- 4) Condition GEO-2: Submit a design-specific geotechnical report in conformance with the City of San José's Geologic Hazard Ordinance and General Plan Policies EC-4.2 and EC-4.4. The proposed project would be built and maintained in accordance with the design-specific geotechnical report and applicable regulations including the most recent California Building Code.

**e. GREENHOUSE GAS EMISSIONS**

- i Condition GHG-1:** The project applicant shall be required to comply with the Greenhouse Gas Reduction Strategy prior to issuance of a grading permit.

**f. HAZARDOUS MATERIALS**

**i Condition HM-1: Presence of Asbestos-Containing Materials and/or Lead-Based Paint**

- 1) In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building to determine the presence of asbestos-containing materials and/or lead-based paint.
- 2) During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.
- 3) All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.

- 4) A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- 5) Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

**g. HYDROLOGY AND WATER QUALITY**

**i Condition HWQ-1: Construction Measures**

- 1) Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- 2) Earthmoving or other dust-producing activities would be suspended during periods of high winds.
- 3) All exposed or disturbed soil surfaces would be watered at least twice daily to control dust as necessary.
- 4) Stockpiles of soil or other materials that can be blown by the wind would be watered or covered.
- 5) All trucks hauling soil, sand, and other loose materials would be covered and all trucks would be required to maintain at least two feet of freeboard.
- 6) All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites would be swept daily (with water sweepers).
- 7) Vegetation in disturbed areas would be replanted as quickly as possible.
- 8) All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.

**ii Condition HWQ-2: Construction Measures for Groundwater Encounter**

- 1) During construction – as the project is regulated by the statewide Construction General Permit, it will be subject to the requirements of that permit related to construction-period pumped groundwater discharges.
- 2) Post-construction – The project shall be designed so that the below-grade parking garage will withstand hydrostatic groundwater pressure intrusions and will not need to pump groundwater on a post-construction basis. If this is infeasible then the project can implement groundwater pumping.
- 3) Any pumped uncontaminated groundwater of less than 10,000 gallons/day shall be discharged to a landscaped area or stormwater treatment feature that is properly designed to accommodate the volume of pumped groundwater, or discharged to the sanitary sewer. Discharge to the sanitary sewer will require review by the City's Environmental Services Engineering section during the Building Permit stage and is subject to all wastewater permitting requirements and fees. In the event, it is not feasible to pump groundwater to stormwater treatment features or the sanitary sewer, groundwater may be discharged to the storm sewer system if testing determines that the discharge is uncontaminated, as

outlined in the City's Stormwater Permit - Provision C.15.b.i(2)(c)-(e). Pre-discharge sampling data collected for verification that the pumped groundwater is not contaminated shall be provided to the City of San Jose.

- 4) Any proposed new discharges of uncontaminated groundwater with flows equal to or more than 10,000 gallons/day, and all new discharges of potentially contaminated groundwater, shall obtain a permit from the San Francisco Bay Regional Water Quality Control Board. Upon approval of the permit, a copy shall be provided to the City of San Jose with the Building Permit application submittal.

#### **h. NOISE**

##### **i Condition NOI-1: Construction Measures**

- 1) Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- 2) Construct solid plywood fences around ground-level construction sites adjacent to operational businesses, hotels, and other noise-sensitive land uses.
- 3) Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- 4) Unnecessary idling of internal combustion engines should be strictly prohibited.
- 5) Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA.
- 6) Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- 7) Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- 8) Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- 9) A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
- 10) Pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
- 11) Consider the use of "acoustical blankets" for receptors located within 100 feet of the site during pile driving activities.
- 12) Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem.

Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.

i. **TRANSPORTATION**

- i Condition TRANS-1: Consistent with Council Policy 5-3 Transportation Impact Policy, the project would be required to construct offsetting improvements in coordination with City of San José's Department of Transportation (DOT) and Department of Public Works (DPW).

In lieu of physical improvements to the intersection, the project proponent shall construct offsetting improvements to other parts of the citywide transportation system or to enhance non-auto travel modes. The final improvements or non-auto travel modes enhancements required shall be identified by the DPW based on the Transportation Impact Policy for protected intersections, which includes fees to fund the identified alternative transportation improvements. The value of the improvements shall be equal to the established fees. Offsetting improvements shall be required to be implemented prior to issuance of occupancy permits from the Building Division. Pursuant to the City's policy, the implementation of offsetting improvements shall provide project benefits that outweigh the project's significant impact.

The City will identify the specific offsetting improvements to be implemented, which would be agreed upon by the community. Priority is given to improvements identified in previously adopted plans such as area-wide specific or master plans, redevelopment plans, or plans prepared through the Strong Neighborhoods Initiative.

32. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the first Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits for a new building (excluding façade improvements to the existing buildings), whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions.

- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
- b. **Transportation/Traffic:** As identified within the project's Traffic Impact Analysis report that was submitted to the City on 5/20/16, the project impacts the intersection of Stevens Creek Boulevard and Monroe Street. Per Council Policy 5-3, this intersection has been designated as a "Protected Intersection". As this intersection has been built to maximum capacity, the project shall construct specific improvements to other segments of the Citywide Transportation System in order to improve system capacity and/or enhance non-auto travel modes. Therefore, the project shall be required to construct offsetting improvements equal to \$2,821 per net project trips (*FY 2015-2016 rate for one impacted location*) plus a 3.5% annual escalation which takes affect July 1<sup>st</sup>.
- c. **Urban Village Plan:** This project is located in a designated Urban Village per the Envision San Jose 2040 General Plan. Urban Villages are designed to provide a vibrant and inviting mixed-use setting to attract pedestrians, bicyclists, and transit users of all ages and to promote job growth.



- d. **Grand Boulevard:** This project fronts Stevens Creek Boulevard, which is designated as one of the seven Grand Boulevards per the Envision San Jose 2040 General Plan. Grand Boulevards are identified to serve as major transportation corridors for primary routes for VTA light-rail, bus rapid transit, standard or community buses, and other public transit vehicles.
- e. **Grading/Geology:**
  - i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
  - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.
- f. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
  - i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
  - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
  - iii. Media Filter Unit(s) located within Building footprints must conform to Building Division Directive P-005 located at the following:  
<http://www.sanjoseca.gov/documentcenter/view/38835>
- g. **Flood Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- h. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
- i. **Assessments:** This project proposes a hotel use. The City of San José, on September 30, 2008, implemented a special tax for Convention Center Facilities District (CCFD) No. 2008-1 for all existing hotel properties with the intent that future hotel properties would participate as well. The special tax was authorized to be levied on hotel properties for the purpose of paying for the acquisition, construction, reconstruction, replacement, rehabilitation and upgrade of the San José Convention Center. The special tax is levied and collected in addition to and in a manner similar to the City's Transient Occupancy Tax. The special tax may not be apportioned in any tax year on any portion of property

in residential use in that tax year, with the understanding that transient occupancy of hotel rooms is not residential use. The base special tax is 4% of gross rents, and may be subject to an additional special tax up to 1% of gross rents. All new hotel properties within San José are encouraged to annex into the CCFD. Please contact Thomas Borden at (408) 535-6831 to coordinate the annexation process.

j. **Street Improvements:**

- i. Install directional ADA ramp at the southeast corner of Stevens Creek Boulevard and Clover Avenue.
  - ii. Construct curb, gutter, and 15' attached sidewalk with tree wells along Stevens Creek Boulevard project frontage. An approximate 7' street easement dedication is required.
  - iii. Extend loading zone to be within 5' from the project driveway.
  - iv. Construct curb, gutter, and 10' attached sidewalk along Clover Avenue project frontage. An approximate 1' street easement dedication is required.
  - v. Proposed driveway width to be 26' on Clover Avenue.
  - vi. Protected Intersection Mitigations:
    - 1) Provide real-time transit signage at the Valley Fair Transit Center and the two bus stops at Stevens Creek Boulevard and Santana Row. Detailed requirement of the transit signage will be provided by the City of San Jose.
    - 2) Upgrade the existing bus stop facilities at the two bus stops at Stevens Creek Boulevard and Santana Row. A list of improvements will be provided by the City of San Jose.
  - vii. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
  - viii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
  - ix. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- k. **Sanitary:** The existing sanitary sewer system along the project frontage is identified to be deficient per the General Plan 2040 anticipated build-out flow as it will impact the existing sewer **deficiency** at the 42" main sewer line along Forest Avenue. The applicant shall provide a 1% fair share contribution based on a City provided master plan level estimate towards the future sanitary sewer project.
- l. **Revocable Encroachment Permit (Street/Sidewalk Closures):** At the Implementation stage, Developer shall apply for a Revocable Encroachment Permit for any proposed sidewalk and lane closures to support the onsite construction activities.
- i. The following should be included with the Revocable Permit application, but are not limited to:
    - 1) **Letter of Intent:** This document should provide a detailed description of the reasons for the sidewalk/lane closures and why they are absolutely necessary (man lifts, baker tanks, staging area, concrete pumping activities, etc.) and reasons

why covered pedestrian walkways will not be provided (ex. swinging loads over sidewalk not safe for pedestrians).

- 2) **Multi-Phased Site Specific Sketches:** These sketches should show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches should include the type and location of the work to be accomplished within the right-of-way. The exhibit should show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment, such as barricades, cones, arrow boards, signage, etc.
  - ii. Developer shall minimize the potential impact to vehicular and pedestrian traffic by:
    - 1) Implementing the closures at the time the onsite activities dictate the need for the closure.
    - 2) Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlines in condition 10.a.ii above.
  - iii. If proposed lane and parking closures are a part of the Revocable Permit Application, Developer shall submit Downtown Lane Closure and Tow Away Permit Applications to DOT. These applications may be obtained at: <http://www.sanjoseca.gov/index.aspx?NID=3713>. Developer shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.
  - m. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
  - n. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of walk. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
  - o. **Other:** The architectural features that encroach onto the City right of way shall be independently attached to the building.
33. **Storm Drain Protection.** No hazardous materials, paint, rinse water, or construction sediments or debris shall be allowed to enter the public right-of-way or any storm drain inlet.
34. **Storm Water Stenciling.** All drain inlets shall be labeled "No Dumping—Flows to Bay." Please contact the City of San José, Department of Public Works, at (408) 535-8300 to obtain free stencils.
35. **Revocation, Suspension, Modification.** This Site Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Site Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or

- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

**APPROVED** and issued on this **7<sup>th</sup> day of December, 2016.**

Harry Freitas, Director  
Planning, Building, and Code Enforcement

Deputy

DRAFT